
FINAL RECOMMENDATION FOR THE PROPOSAL TO REGULATE MESSAGE THERAPISTS

April 12, 2005

Recommendation of the Joint Committee on Boards, Commissions, and Consumer Protection (Joint Committee)

ISSUE #1. (REGULATE MESSAGE THERAPISTS AT THE STATE LEVEL?) Should the current regulation of message therapists be shifted from the local level to the state level?

Recommendation #1: *The Joint Committee recommends that regulation of message therapists should be shifted from the current local jurisdiction approach to a state-based approach to provide for more uniform standards. The state-based approach should be flexible enough to serve the needs of the public, the profession, as well as the legitimate interests of the local governments who currently use existing law for legitimate public policy purposes.*

Comments: Current law which has been in place since 1976 allows cities and counties to condition the issuance of a massage license upon proof that the massage personnel and the owners or operator of such business have not been convicted of certain sex-related crimes. It was argued by some that this legislation was enacted to deal in part with the adult-oriented sex business, but in doing so legitimate massage businesses are subject to local ordinances that inappropriately and oppressively regulate them as “adult entertainment.” Some examples are restrictive zoning, excessive fees, VD tests, required showers and separate restrooms, and prohibited home visits. Because local jurisdictions control the regulation of massage, local ordinances can be vastly different – leaving the massage therapist with the burden of adhering to each jurisdiction’s requirements. This can make movement between jurisdictions anywhere from difficult to impossible.

The perception of massage as a vice has resulted in many cities requiring expensive conditional use permits. Restricting massage businesses from opening within 1,000 feet of schools, churches, or residences has effectively zoned massage out of many small cities. Local regulation treats professionals and “massage parlors” alike and consumers have a problem knowing how to distinguish legitimate massage practitioners from “massage parlors.”

According to the American Massage Therapist Association, California Chapter, consumers do not know the difference between a purchased certification and a certification that requires a specific amount of training. Different jurisdictions have different standards which would indicate that there is no local government agreement about what standards are necessary and sufficient. It would seem appropriate to move regulation of massage therapy to the state level to create a more uniform standard.